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BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-364-C - ORDER NO. 97-1072
DECEMBER 29, 1997

IN RE: Application of Pushbutton Paging and) ORDER
Communications, Inc. for a Certificate) APPROVING
of Public Convenience and Necessity to) CERTIFICATE TO
Provide Intrastate Local and Long) PROVIDE
Distance Resale Telecommunications) LOCAL
Services within the State of) SERVICE
South Carolina.)

✓MR

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the application of Pushbutton Paging and Communications, Inc. ("Pushbutton" or "the Company"). The Application requests that the Commission issue a Certificate of Public Convenience and Necessity authorizing Pushbutton to resell all forms of local telephone service and long distance services in the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1996), and the Regulations of the Commission.

By letter dated September 25, 1997, the Commission's Executive Director instructed Pushbutton to publish, one time, a prepared Notice of Filing and Hearing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing and Hearing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings and to provide

notice of the hearing date on this matter. Pushbutton complied with this instruction and provided the Commission with proof of publication of the Notice of Filing and Hearing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC").

A hearing was convened on December 11, 1997, at 10:30 a.m. in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. Pushbutton was not represented by counsel. The Commission Staff ("Staff") was represented by Florence P. Belser, Staff Counsel. SCTC did not appear at the hearing.

Prior to the hearing, Pushbutton and the SCTC executed a Stipulation dated October 15, 1997. The Stipulation was filed with the Commission prior to the hearing in this matter. As a result of the Stipulation, SCTC withdrew its intervention in the Docket. The Stipulation provides the following:

- (1) The SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Pushbutton if the Commission makes the necessary findings to grant the Certificate and if all stipulated conditions are met;
- (2) Pushbutton agrees that any Certificate granted by the Commission will authorize Pushbutton to provide service only to customers located in non-rural local exchange company ("LEC") service areas except as otherwise provided;
- (3) Pushbutton agrees that it is not requesting the Commission to find whether competition is in the public interest for rural areas;
- (4) Pushbutton agrees that it will not provide local service, by its own facilities or otherwise, to any customer in a rural incumbent LEC's service area, unless and until Pushbutton provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least

thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Pushbutton also acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause;

- (5) Pushbutton agrees that if, after Pushbutton gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then Pushbutton will not provide service to any customer located within the service area in question without prior and further Commission approval;
- (6) Pushbutton acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures and guidelines do not conflict with Federal or State law;
- (7) Pushbutton and the SCTC agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and that the stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled; and
- (8) Pushbutton agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

This stipulation is consistent with our decision in Order No. 96-494 (Docket No. 96-073-C). It was signed voluntarily by both

the SCTC and Pushbutton, was filed with the Commission prior to the hearing in this matter, and was made a part of the record at the hearing. We therefore approve the stipulation.

At the hearing, Pushbutton amended its request for authority by deleting its request to provide long distance telecommunications services. Pushbutton stated that it would sell other companies' debit (or prepaid calling) cards in its office, but that such sales would be retail sales of the other companies' debit cards. Pushbutton acknowledged that it would be acting as a retail outlet only and did not need authority to provide long distance services. Therefore, Pushbutton abandoned its request for authority to provide long distance services and elected to proceed only with its request for authority to provide local telecommunications services.

In support of its Application, Pushbutton presented Lawrence Hansbro, President and CEO of Pushbutton, to testify. The purpose of Mr. Hansbro's testimony was (1) to demonstrate that Pushbutton possesses sufficient technical, managerial, and financial resources and abilities to provide the services for which Pushbutton seeks authority and (2) to show that the granting of this authority to Pushbutton is in the public interest.

DISCUSSION

S.C. Code Ann. §58-9-280 (Supp. 1996) provides that the Commission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, Pushbutton's Application, and the evidence presented at the hearing, the Commission finds and concludes that the Certificate sought by Pushbutton should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (Supp. 1996) and the evidence presented at the hearing which relates to that criteria:

(1) The Commission finds that Pushbutton possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1996). Mr. Hansbro testified that Pushbutton's technical and managerial abilities are demonstrated by his experience and training in telecommunications as well as by Pushbutton's successful provision of cellular services. Mr. Hansbro further stated that once certification is granted that selected employees will attend BellSouth's customer education workshops.

Regarding Pushbutton's financial resources, the record reveals that Pushbutton is incorporated under the laws of the State of Georgia. Mr. Hansbro testified that Pushbutton has sufficient financial resources to provide local services. Mr. Hansbro stated that Pushbutton had experienced positive growth from its inception and offered that Pushbutton has sufficient cash flow to provide local exchange services in South Carolina.

No other party offered any evidence in opposition to Mr. Hansbro's testimony. Based on the undisputed evidence of the record, the Commission finds that Pushbutton possesses the

technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that Pushbutton will provide services that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1996). Mr. Hansbro testified that Pushbutton intends to provide local exchange services by reselling the transmission facilities of incumbent local exchange companies. Mr. Hansbro specifically stated that Pushbutton will comply with all applicable rules, policies, and statutes applicable to the offering of those services and that Pushbutton fully intends to meet the Commission's service standards. Furthermore, Mr. Hansbro stated that Pushbutton would make certain changes to its tariff, as suggested by Staff, to bring the tariff into compliance with Commission Rules and Regulations. No party offered any evidence to dispute Mr. Hansbro's testimony. Based on the undisputed testimony from Mr. Hansbro, the Commission believes, and so finds, that Pushbutton will provide telecommunications services which will meet the service standards of the Commission.

(3) The Commission finds that Pushbutton's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1996). Mr. Hansbro stated that Pushbutton's service offerings would not adversely impact the availability of affordable local exchange service. Mr. Hansbro offered that certification of Pushbutton would serve the public interest through competitive

pricing and the highest quality service in the resale telecommunications market in South Carolina. Further, Mr. Hansbro stated that certification would provide additional choice for South Carolina consumers. No party offered any evidence that the provision of local exchange service by Pushbutton would adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by Pushbutton will not adversely impact affordable local exchange service.

(4) The Commission finds that Pushbutton will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1996). Mr. Hansbro testified that Pushbutton will comply with the Commission's universal service requirements. No party disputed Mr. Hansbro's testimony. Based on the undisputed evidence of record, the Commission finds that Pushbutton will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local exchange service by Pushbutton "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996). Mr. Hansbro offered that approval of Pushbutton to provide local telecommunications services will benefit consumers by providing high quality services at competitive prices and providing additional choice for South Carolina consumers. Mr. Hansbro's testimony was undisputed as no party offered any evidence that approval of Pushbutton's Application would adversely

impact the public interest. Therefore, the Commission finds that approval of Pushbutton's Application for a Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996).

Therefore, based on the findings above, the Commission finds and concludes that the Certificate sought by Pushbutton should be granted.

IT IS THEREFORE ORDERED THAT:

1. The Application of Pushbutton for a Certificate of Public Convenience and Necessity authorizing Pushbutton to resell all forms of local telephone service in the State of South Carolina is approved.

2. The Stipulation filed by Pushbutton and the SCTC is approved by this Commission, is binding upon Pushbutton and the SCTC, and shall be implemented as set forth in the Stipulation. We therefore make no findings or conclusions regarding competition in the rural areas of South Carolina. Pushbutton shall conduct its operations in compliance with the Stipulation until further Order of the Commission.

3. Pushbutton shall file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings. The final tariff shall include the modifications and changes as proposed by the Commission Staff and to which Pushbutton agreed.


4. Pushbutton shall, in compliance with Commission regulations, designate and maintain an authorized utility

representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, Pushbutton shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Pushbutton shall file with the Commission the names, addresses, and telephone numbers of these representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, Pushbutton shall promptly notify the Commission in writing if the representatives are replaced. Pushbutton is directed to comply with all Commission regulations unless expressly waived by the Commission.

5. Pushbutton shall conduct its business in accordance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director

(SEAL)

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ATTACHMENT A

INFORMATION OF THE AUTHORIZED UTILITY REPRESENTATIVES
FOR INTEREXCHANGE, LOCAL AND AOS COMPANIES

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and
maintain with the Commission the name, title, address, and
telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by

Signature

If you have any questions, contact the Consumer Services
Department at 803-737-5230